



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,972	07/17/2003	Ross S. Tsugita	1001.1421103	2230
28075	7590	05/08/2007		
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER THALER, MICHAEL H	
			ART UNIT 3731	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/621,972

Applicant(s)

TSUGITA, ROSS S.

Examiner

Michael Thaler

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-52 is/are pending in the application.
- 4a) Of the above claim(s) 47-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3731

Claims 47-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on Oct. 10, 2006.

Claims 32-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (WO 99/22673) in view of Littleford et al. (5,054,500). Gray discloses guidewire 30, filter 50 and stent (page 6, lines 15-17). Gray fails to disclose a first catheter shaft (claim 32) or outer catheter shaft (claim 41) with a balloon coupled thereto. However, Littleford et al. teach that a guiding catheter 20 with a balloon 24 should be used with a treatment catheter 30 in order to obtain the advantage of centering the treatment catheter 30 within the vasculature while the balloon 24 holds the guiding catheter in place (col. 3, lines 10-28). It would have been obvious to use a guiding catheter with a balloon with the Gray treatment catheter so that it too would have this advantage. The guiding catheter is the claimed "first catheter shaft" (claim 32) or "outer catheter shaft" (claim 41). The Littleford et al. balloon 24 (figures 2-8) is configured to stop fluid from outside the catheter shaft proximal to the balloon from flowing distally past the distal region of the shaft as now claimed.

Art Unit: 3731

As to claims 33 and 38, Gray fails to disclose that the stent is self expanding and is retained in a collapsed configuration by a retaining sleeve. However, it is old and well known in this art to make stents self-expanding in order to obtain the advantage of enabling them to automatically expand when released by the retaining sleeve. It would have been obvious to make the Gray stent self expanding so that it too would have this advantage. The above well known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion (M.P.E.P. 2144.03).

Claims 32-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garza et al. (4,665,918) in view of Hawkins et al. (4,790,812) and Littleford et al. (5,054,500). Garza et al. disclose first shaft 78, guidewire 12, and stent 25. Garza et al. fail to disclose a filter coupled to the guidewire 12. However, Hawkins et al. teach that a filter 11 should be coupled to a guidewire 26 in order to obtain the advantage of capturing emboli or atheroma particles resulting from a procedure performed upstream in a blood vessel (col. 4, lines 25-29 and 47-51 and col. 5, lines 27-29). It would have been obvious to include a filter with the Garza et al. guidewire 12 so that it too would have this advantage during the Garza et al. stent deploying procedure which produces atheroma particles. Garza et

Art Unit: 3731

al. fail to disclose a balloon coupled to the first shaft (the guiding catheter). However, Littleford et al. teach that a balloon 24 should be coupled to a guiding catheter in order to obtain the advantage of centering a treatment catheter 30 within the vasculature while the balloon 24 holds the guiding catheter in place (col. 3, lines 10-28). It would have been obvious to include a balloon on the Garza et al. guiding catheter so that it too would have this advantage.

Claims 32-46 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,168,579. Although the conflicting claims are not identical, they are not patentably distinct from each other because the slight difference in the wording of the claims involves only an obvious difference.

Applicant's arguments with respect to claims 32-46 have been considered but are moot in view of the new ground(s) of rejection. Further, the addition of a filter on the Garza et al. guidewire 12 would not eliminate the J end of the guidewire 12 since the filter would obviously be located proximal to the J end since the J end is used to guide the guidewire into a side vessel.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS**

Art Unit: 3731

ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

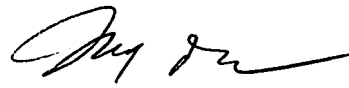
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571) 272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3731

mht

A handwritten signature in black ink, appearing to read 'Michael Thaler', with a stylized, flowing script.

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731